

HCS HB 543 -- OFFICE OF STATE AUDITOR

SPONSOR: Hoskins

COMMITTEE ACTION: Voted "Do Pass" by the Committee on General Laws by a vote of 9 to 5.

This substitute changes the laws regarding the responsibilities of the Office of the State Auditor. In its main provisions, the substitute:

- (1) Repeals the provision requiring the Auditor to prescribe the form of books, receipts, vouchers, and documents required to separate and verify each transaction and forms of reports and statements required for the administration of the officer or for the information of the public;
- (2) Repeals the provision requiring the Auditor to postaudit the accounts of all state agencies and audit the state treasury at least once a year, the accounts of all appointed officers of the state and institutions supported by the state at least once every two years, and any executive department or agency of the state upon the request of the Governor;
- (3) Allows all audits to be made at the Auditor's discretion without advance notice to the organization being audited;
- (4) Requires the Auditor, on his or her own initiative and as often as deemed necessary, to make or cause to be made audits of all or any part of the activities of state agencies;
- (5) Requires the Auditor to make or cause to be made audits of all or any parts of political subdivisions and other entities as authorized by state law;
- (6) Allows the Auditor, at his or her discretion, in selecting audit areas and in evaluating current audit activity, to consider and utilize the relevant audit coverage and applicable reports of the audit staffs of the various state agencies, independent contractors, and federal agencies;
- (7) Authorizes the Auditor to contract with federal audit agencies or any governmental agency, on a cost reimbursement basis, in order to perform audits of federal grant programs administered by state departments and institutions in accordance with agreements negotiated between the auditor and the contracting federal audit agencies or any governmental agency;
- (8) Authorizes and directs the Auditor in reports of audits or

special investigations to make any comments, suggestions, or recommendations deemed appropriate concerning any aspect of the agency's activities and operations;

(9) Requires an audit of the treasury at least once a year;

(10) Allows the Auditor to examine the banking accounts and records of the state treasurer, state agency, or any political subdivision at any bank or financial institution. However, the bank or financial institution must not be required to produce the requested records until the auditor, treasurer, state agency, or political subdivision reimburses the reasonable document product costs;

(11) Allows the Auditor, as often as deemed necessary, to conduct a detailed review of the bookkeeping and accounting systems in use in the various state agencies to evaluate the adequacy of the systems, recommend changes to the agency, and notify the General Assembly of the recommended changes;

(12) Requires the Auditor, through appropriate tests, to determine the propriety of the data presented in the state comprehensive annual financial report and express the appropriate auditor's opinion in accordance with generally accepted government auditing standards;

(13) Requires the Auditor to provide a report to the Governor, Attorney General, and other appropriate officials of any facts known that pertain to the apparent violation of laws or instances of an officer or employee not meeting a required duty;

(14) Requires the Auditor, or his or her designated representative, at the conclusion of an audit to supply a copy of a draft report of the audit to, and discuss the draft with, the official, or his or her designated representative, whose office was subject to the audit. The auditee must provide responses to any recommendations contained in the draft report;

(15) Requires the Auditor to notify the General Assembly, Governor, director of each state agency audited, and others deemed appropriate that an audit report has been published along with specified information. The distribution requirements of the report are specified in the substitute;

(16) Prohibits the audit function established in the substitute from being construed to infringe upon or deprive the General Assembly or the Executive or Judicial branches of state government of any rights, powers, or duties vested in or imposed upon them by statute or the Missouri Constitution;

(17) Requires the Auditor to be responsible for receiving reports of allegations of improper governmental activities and to adopt the necessary policies and procedures to provide for investigation or referral of allegations;

(18) Requires the Auditor to maintain a complete file of all audit reports and reports of other examinations, investigations, surveys, and reviews issued under the auditor's authority. Audit work papers and other evidence must be kept confidential and must be retained according to an agreement between the Auditor and State Archives within the Office of Secretary of State, but may be made available for inspection by duly authorized representatives of the state and federal government in connection with an official matter, including criminal investigations;

(19) Authorizes the Auditor to audit any public employee retirement or public employee health care system operating within the state;

(20) Requires the Auditor to provide various means, which must include a telephone hotline, electronic mail, and Internet access, to receive reports of allegations of improper governmental activities and periodically publicize this contact information. An individual who makes a report may choose to remain anonymous if he or she chooses;

(21) Requires the Auditor, upon receiving an allegation of improper governmental activities of state agencies, political subdivisions, or state or political subdivision officers or employees, to conduct an initial review. He or she may investigate those allegations that are deemed to be credible and must refer the allegation to the proper state agency for the enforcement or administration of the matter when it is believed that the allegation is outside his or her authority;

(22) Repeals the provisions regarding audit standards and the summons of persons and documents in any examination;

(23) Requires the Auditor to have access to persons and any documents of any state agency or political subdivision that the auditor is authorized by law to audit, including state tax returns under certain circumstances;

(24) Requires the Auditor to have access to persons and any documents in the possession of any individual, private corporation, institution, association, board, or other organization that pertain to the amounts received under a grant or contract from the federal government, the state, or its political subdivisions or the amounts

received, disbursed, or otherwise handled on behalf of the federal government or the state. The Auditor must comply with state and federal financial privacy requirements prior to accessing the records and must reimburse the reasonable documentation and production costs;

(25) Authorizes the Auditor to have ready access and to examine and inspect all property, equipment, and facilities in the possession of any state agency, political subdivision, or any individual, private corporation, institution, association, board, or other organization that were provided through state or federal funding;

(26) Requires all contracts or agreements entered into, as a result of the award of a grant, by state agencies or political subdivisions to include a clause describing the Auditor's access as provided under these provisions;

(27) Authorizes the Auditor and authorized agents to examine all books and accounts of any individual, firm, or corporation that relate to transactions with any state agency or political subdivision;

(28) Allows the Auditor to obtain the services of certified professionals and experts as deemed necessary to carry out the duties and functions assigned under these provisions;

(29) Prohibits any state agency from contracting for auditing services without consulting with, and the prior written approval of, the Auditor;

(30) Allows the Auditor or his or her authorized representative to have the power to subpoena witnesses, take testimony under oath, depose witnesses, and assemble records and documents. If a person refuses to comply with a subpoena, the auditor must seek to enforce the subpoena before a court of competent jurisdiction to require the attendance and testimony of witnesses and the production of documents;

(31) Specifies that any person who willfully makes or causes to be made to the Auditor or the Auditor's designated representative any false, misleading, or unfounded report for the purpose of interfering with the performance of any audit, special review, or investigation or to hinder or obstruct the Auditor's duties will be guilty of a class A misdemeanor. Any person or entity who refuses or fails to comply with this requirement will be guilty of a class A misdemeanor;

(32) Allows the General Assembly, when desired, to order an

independent audit to be conducted of the State Auditor's office;

(33) Requires the board of directors of the Missouri County Employees' Retirement System to arrange for annual audits of the system and the operations of the board by a certified public accountant or firm. Currently, the auditor must provide the audit every two years;

(34) Repeals the provision requiring the Auditor to examine the independent audits conducted of the records and accounts of specified retirement systems at least once every three years and report the results to the board and the Governor; and

(35) Repeals the provisions regarding transportation provided to examiners, establishing accounting systems for all state officers and agencies, reporting findings from examinations of state institutions and officials, proof of payment of fees, and the criminal penalty for failure to comply.

The substitute contains an emergency clause.

PROPONENTS: Supporters say that this bill updates and eliminates outdated laws and provides efficiency and flexibility for the auditor in scheduling and prioritizing audits. The changes will allow for more efficient and effective use of existing audit staff and allows the proper authorities to be notified upon the discovery of fraud. The bill will not create any new duties, but simply clarifies the existing responsibilities of the auditor.

Testifying for the bill were Representative Hoskins; and Office of the State Auditor.

OPPONENTS: There was no opposition voiced to the committee.